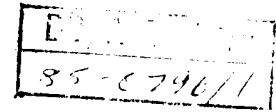


Central Intelligence Agency



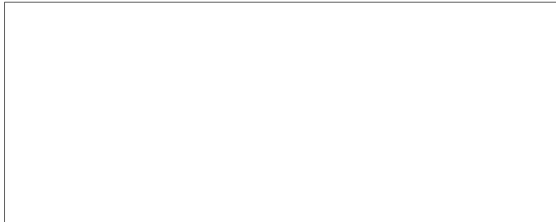
Washington, D.C. 20505

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Thank you for your letter of 26 February 1985. I appreciate the time you took in drafting that letter as well as your imaginative suggestions. A number of varied circumstances surround the problems you defined. There are a number of regulatory requirements imposed by statute, Executive Order (E.O.) and Agency policies which shape the manner in which Freedom of Information Act (FOIA) requests are processed in the Agency.

The Central Intelligence Information Act, which placed certain operational files beyond the reach of the FOIA, did not by any means remove the need for a focal point without the Agency to deal with all requests for public disclosure of official CIA records. You will recall that public access to such records is not the exclusive domain of the FOIA. The Privacy Act as well as the mandatory declassification review procedures also provide for public access. The recent CIA Information Action did not alter requirements imposed upon CIA by those Acts. In fact, FOIA requests constitute only about 50% of public requests for access to official records. PA requests account for 40% and E.O. 12356 for the remaining 10%. Moreover, the Directorates, whose operational records are now removed from the reach of the FOIA, still have many records which remain within the reach of the FOIA. Furthermore, the Directorate of Operations, for example, must continue to review those copies of its records found, in response to an FOIA request, in other directorates or in other agencies.

Without attempting to do a detailed analysis of your proposal I would merely add one additional observation concerning a circumstance which limits the utility of your proposal. Declassification reviews are the responsibility of the originator of the classified material involved. It is for that reason that a major expenditure of time is devoted to referrals from other agencies. Moreover, that circumstance alone dictates against the idea of a single office such as OCR exercising the authority to declassify and thus make public information originated by other components of the Agency. Aside from the official requirements regarding classification and declassification authorities, there are a

David S. Sennett, Esq.

number of practical reasons why such an arrangement could not be expected to function properly. Individuals cannot be held responsible for protecting secrets, in the process of a declassification review, when they are not witting as to why the information is secret.

I appreciate particularly your goal of reducing the amount of manpower and thus expenses the FOIA imposes upon the Agency. We are, however, obligated by Congress to maintain the current level of manpower and resources committed to the FOIA for the next two years. This latter requirement is intended to ensure that the Agency backlog is reduced.

Thank you again for your letter. I appreciate your interest.

Sincerely yours,

[Redacted Signature] STAT

✓ Harry E. Fitzwater
Deputy Director for Administration

DA:D/OIS: [Redacted] vg

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Executive Registry STAT

85- 930 STAT

February 26, 1985

DD/A Registry STAT

85-0796

William J. Casey
Director of Central Intelligence
Central Intelligence Agency
Washington, D.C. 20505

Re: Public Law 98-477; The Central Intelligence Agency
Information Act

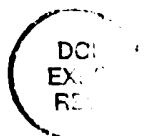
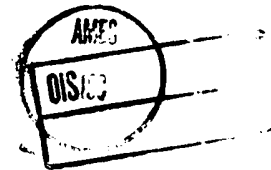
Dear Mr. Casey:

As you are undoubtedly aware, Congress has made April 15, 1985, a very special day for the Director of Central Intelligence. By that date you will have submitted your first report to Congress, pursuant to sec. 3(b)(1)(A) of the new law, describing the procedures you have implemented to expedite Freedom of Information Act (FOIA) requests. I am sure that you and your staff are giving long and careful attention to this congressional mandate. Coincidentally, passage of P.L. 98-477 has stirred my creative juices as well. Having processed FOIA requests as a CIA employee, and most recently, having requested material through the FOIA, I can offer some suggestions to improve efficiency in processing requests. Equally important, my suggestions will save CIA money.

Time and space do not permit me to go into specifics. I will give you a general outline of my ideas. The thrust of the new law, exempting many files from review, removes the need for an agency-wide FOIA office and focuses future activity in the office that historically has collected and indexed raw and finished intelligence, the Office of Central Reference (OCR). (I am sure my conclusion hardly surprises you; undoubtedly, you came to this same result long ago.)

As you know, OCR is well equipped to handle the processing of FOIA requests. I would abolish the Office of Information and Privacy Coordinator and eliminate the information review officer for each directorate. In their place I would create an independent office within OCR. This new office would assume all functions previously handled by the Information and Privacy Coordinator and the information review officers, including:

a) responding to the initial request



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- b) searching for relevant documents, except those which are stored outside the Directorate of Intelligence
- c) screening for exempt material
- d) sending the responsive material to the requester

The new law affords you the opportunity to combine processing components at CIA into one unit and assign that office virtual total control of most requests under FOIA. This new component, however, cannot handle all requests, because the concept of compartmented information will be lost.

This new office will only handle requests for finished or raw intelligence. Other requests on more sensitive subjects will still require line-by-line processing and ultimate exemption from disclosure. The areas that come to mind are policy directives, covert action and legitimate contacts with Americans. Many of these requests may even demand that CIA neither confirm nor deny the existence of the records. Careful review could take months of scrutiny.

CIA can show good faith on these requests by screening them in the following manner. When the new FOIA office chief receives a request for sensitive material, records that are kept outside the Directorate of Intelligence, he or she will send the request to the relevant component. Within two days the appropriate official would respond by saying:

- a) the matter is protected by statute; no records can be released because to his or her knowledge they are all exempt from disclosure
- b) this subject cannot be confirmed or denied
- c) most records are exempt but search and review can be completed within a stated period of time
- d) some records are exempt but search and review can be completed within a stated period of time
- e) all records are subject to disclosure

The official will send his or her response to the new FOIA chief who, in turn, will transmit it to the requester. In this way CIA can issue a response within ten days and

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protect documents that must remain secret. The new FOIA chief will also have authority to deny a request seeking exempted material under the new law. This system will eliminate much of the "coordination" that occurs today. This coordination accounts for a certain amount of delay in the system.

Staffing the New Office


To head this new office, I would appoint someone with previous experience in OCR, but who is knowledgeable of FOIA, particularly its legal ramifications. This officer will assume ultimate responsibility for releasing FOIA material from CIA. He or she would supervise two or three employees. They would handle all functions assigned to this office. No working analyst would ever be involved in a request for raw or finished intelligence. Some analysts, by necessity, would be involved in a more sensitive request.

After retrieving the material, the staff would undertake declassification by contacting the originating component directly. These contacts need only apply to material originating outside the directorate of intelligence. The staff would have the authority to declassify finished intelligence produced by the Directorate of Intelligence. This would be a judgment call. In sum, the whole system is decentralized; there is no need for information review officers in each directorate.

My ideas are pretty rough and need concrete development. Nevertheless, they are workable. Most importantly, they come from someone outside the system. I believe outside input is useful in expediting FOIA requests. I also noticed that Congress has asked you to study the feasibility of conducting systematic declassification of agency records. Personally, I do not think it possible, but on a voluntary basis, my suggestions might have some merit.

I hope you consider my comments.

Very truly yours,



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cc:



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